

Comments for the
North Dakota Administrative Rules Committee
Presented by Kevin G. Nelson, PE, PLS-Chairman

Good Morning Chairman Devlin, members of the committee:

My name is Kevin Nelson. I am a registered Professional Engineer and Professional Land Surveyor in North Dakota. I am also the Chairman of the North Dakota State Board of Registration for Professional Engineers and Land Surveyors.

The North Dakota Board of Registration for Professional Engineers and Land Surveyors (Board) is making changes to the North Dakota Administrative Code because of significant changes to exam administration procedures on the national level. Additional changes are being made to keep the rules consistent with modern technology and business practices.

1. These rules are not a result of any statutory change.
2. These rules are not related to any federal statute or regulation.
3. The Board followed the procedures to promulgate rules as required by North Dakota Century Code 28-32. The Board drafted rules changes, our SAAG Lyle Kirmis prepared a long and short notice of rulemaking, published a hearing notice in every official county newspaper via the North Dakota Newspaper Association, and conducted a hearing. The Board inadvertently did not mail the proposed rule changes to the Legislative Council. Our SAAG and the Attorney General's office concluded that filing the notice with the Legislative Council, waiting 20 days, and then conducting another hearing would be substantial compliance with rulemaking procedure. After another comment period, the Board adopted the rules changes.
4. During the hearings and comment periods, there were no oral or written concerns, objections or complaints regarding the proposed rules. The only comment received was a letter from a representative of the North Dakota Society for Professional Engineers. The letter was in support of the rules changes.
5. Revisions:
 - a. Found on page 11=28-02.1-02-01 (2, 4) Processing of Applications. The changes being made to this section are the result of substantial changes to the exam administration process at the national level. Two of the national exams, the FE and FS are now being administered via computer rather than the traditional paper and pencil exams. Previously, the FE and FS were available only 2 days of the year. Now the exam is available for the first two months of every calendar quarter. Because of the large number of testing windows, the national movement is to allow individuals to take the Fundamentals examinations when they feel they are prepared rather than wait Board approval. Individuals can now take the exam at a time of their choosing and apply to the Board for enrollment as an Intern after they have passed the exam. These changes in subsections 2 and 4 clarify that exam approval is required for Principles and Practices examinations only.

- b. Found on page 12=28-02.1-04-01 (4) General Requirements. The language here is being removed because it is no longer relevant or necessary.
 - c. Found on page 13=28-02.1-06-02. Qualifications and Requirements-Professional Land Surveyor by Examination. In the past, the only acceptable experience for a Professional Land Surveyor was experience that was gained after the individual graduated from school. However, there is no minimum education requirement for registration as a Professional Land Surveyor so many applicants have no formal education at all-no graduation date. Also, many individuals are returning to school for formal education later in life after many years of working. This change will allow the Board to consider all of the work experience rather than just the experience gained after graduation.
 - d. Beginning on page 14=28-02.1-08 (2-4) Seals. The changes being made in this section are the result of changing business practices. The emphasis on "going green" or "going paperless" has created a demand by the profession that engineering and land surveying documents be electronically created, transmitted and stored. The language changes here allow for electronic seals and electronic signatures. The final subsection defines the term "signature" and includes language for a digital or electronic signature.
 - e. Found on pages 16-17=28-02.1-08-03 Use of Seals. The changes in this section remove the requirement that signatures must be "original". The term "signature" is left because the proposed definition encompasses both ink and digital signatures. The final change in this section allows for electronic storage of documents. The previous language required that paper copies of drawings, plans, survey plats, etc. be kept in a known location. These changes allow for scanning and archiving of older documents as well as maintaining more recent electronic documents.
6. The approximate cost of the rulemaking process was \$2,700.
 7. No economic impact statement was required by NDCC section 28-32-08.1 (5). Per NDCC section 28-32-08, no regulatory analysis was prepared because an analysis has not been requested and the rules do not have an impact on the regulated community in excess of \$50,000.
 8. In compliance with NDCC section 28-32-08.2, no fiscal note was prepared because there is no anticipated fiscal impact on any revenues or expenditures as a result of any of the rules changes.
 9. No constitutional takings assessment was prepared because no rule limits the use of private real property.
 10. These rules are not being adopted as a result of an emergency.

Conclusion: These proposed rule changes address the changing exam environment and give individuals greater access to the exams and allows the exams to be taken at a time of the individuals' choosing. Additionally, these rules address the changing business environment and allow for eliminating the cumbersome requirement of retaining original paper copies of engineering and land surveying work product, should a company choose to do so.